



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 117**

### **Docket No. USCG-2019-0809**

### **RIN 1625-AA09**

### **Drawbridge Operation Regulation; Chelsea River, Chelsea, MA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to modify the operating schedule that governs the Chelsea Street Bridge across the Chelsea River, mile 1.3, at Chelsea, Massachusetts. The bridge owner, Massachusetts Department of Transportation (MassDOT), submitted a request to allow the bridge to open to 139 feet above mean high water instead of the full open position of 175 feet unless a full bridge opening is requested. It is expected that this change to the regulations will create efficiency in drawbridge operations and better serve the needs of the community while continuing to meet the reasonable needs of navigation.

**DATES:** Comments and related material must reach the Coast Guard on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2019-0809 using Federal e-Rulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section below for instructions on submitting

comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or e-mail Jim Rousseau, Project Officer, First Coast Guard District, telephone (617) 223-8619, e-mail James.L.Rousseau2@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
E.O.	Executive order
FR	<b>Federal Register</b>
OMB	Office of Management and Budget
NPRM	Notice of proposed rulemaking
Pub. L.	Public Law
§	Section
U.S.C.	United States Code

**II. Background, Purpose and Legal Basis**

The Chelsea Street Bridge at mile 1.3, across the Chelsea River, at Chelsea, Massachusetts, has a vertical clearance in the closed position of 9.33 feet at mean high water and 20.02 feet at mean low water. Horizontal clearance is approximately 225 feet. The waterway users include recreational and commercial vessels, including tugboat/barge combinations and tankers.

The existing drawbridge operating regulations is listed at 33 CFR 117.593.

In September of 2019, the owner of the bridge, MassDOT, requested a change to the drawbridge operation regulations to allow the Chelsea Street Bridge to open to 139 feet above mean high water, which is an acceptable height for all vessels requesting openings on the Chelsea River. The requested change in drawbridge operations is due to the increased volume of traffic across the bridge during peak commuting hours, making bridge openings up

to 175 feet impractical. This change in opening height reduces the opening time by 2-6 minutes per opening. The Chelsea Street Bridge will perform a full bridge opening of 175 feet above mean high water when requested to do so. The existing regulations require the bridge to open immediately on signal and will continue to do so.

MassDOT reached out to the maritime stakeholders with the requested change proposed and received no objections.

Under this proposed rule the draw would open on signal as stated above, but only to 139 feet above mean high water, except when a full opening to 175 feet above mean high water is requested. We analyzed the bridge opening data for the Chelsea River Bridge during calendar years June 2017- June 2018, comparing the number of bridge openings required to 175 feet and the number of bridge openings required to 139 feet for each month of the year.

The bridge opening breakdown for June 2017-June 2018 is as follows: Out of the total 1967 bridge openings, none were needed to the 175 foot elevation and the remaining 100% could clear the 139 foot elevation.

The bridge tender will be aware of the vertical clearance from the low steel chord of the bridge to the water level by a sensor displaying distance on the Operator Control Panel housed in the Drawbridge Control Room at the bridge. A selector switch will be placed in the 139 foot position or full lift (175 feet) position by the bridge tender prior to operations depending on the vessel requirements.

### **III. Discussion of Proposed Rule**

As a result of the data mentioned above the Coast Guard believes that allowing the Chelsea River Bridge to open to 139 feet, except when a request to

open to 175 feet is requested, is reasonable based on the zero requests needed to open to 175 feet and to match actual operations.

Due to the unique nature of the drawbridge operation for this MassDOT Bridge, the Coast Guard also proposes to alter the lighting requirements to better meet the needs of navigation at this drawbridge. In accordance with 33 CFR § 118.85, the center of the navigational channel under the operable span will be marked by a range of two green lights when the vertical span is open to navigation. The Coast Guard proposes to allow one solid green light and one flashing greenlight when the bridge is at the 139 footmark and two solid green lights when the bridge is fully opened to 175 feet.

We believe this proposed rule will continue to meet the reasonable needs of navigation while also improving drawbridge efficiency of operation.

#### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders and we discuss First Amendment rights of protestors.

##### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed the NPRM and pursuant to OMB

guidance, it is exempt from the requirements of Executive Order 13771.

The Coast Guard believes this rule is not a significant regulatory action because the bridge will open fully for any vessel upon request. We believe that this proposed change to the drawbridge operation regulations at 33 CFR 117.593 will meet the reasonable needs of navigation.

*B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The bridge provides 9.33 feet mean high water and 20.02 feet mean low water of vertical clearance that should accommodate all the present recreational vessel traffic except commercial tugs and deep draft vessels. The bridge will continue to open on signal. While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

*C. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520.).

*D. Federalism and Indian Tribal Government*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the FOR

FURTHER INFORMATION CONTACT section above.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

*F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally, this action is categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3-1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

## **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal e-Rulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the FOR FURTHER INFORMATION CONTACT section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this NPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

### **List of Subjects in 33 CFR part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:



## PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; DHS Delegation No. 0170.1.

2. Revise §117.593 to read as follows:

### § 117.593 Chelsea River.

- (a) All drawbridges across Chelsea River shall open on signal. The opening signal for each drawbridge is two prolonged blasts followed by two short blasts and one prolonged blast. The acknowledging signal is three prolonged blasts when the draw can be opened immediately and is two prolonged blasts when the draw cannot be open or is open and must be closed.
- (b) The draw of the Chelsea Street Bridge, mile 1.3, at Chelsea, shall open as follows:
  - (1) The draw shall open on signal to 139 feet above mean high water for all vessel traffic unless a full bridge opening to 175 feet above mean high water is requested.
  - (2) The 139 foot opening will be signified by a range light display with one solid green light and one flashing green light and the full 175 foot opening will be signified with two solid green range lights.

Dated: October 25, 2019

A.J. Tionson,  
Rear Admiral, U.S. Coast Guard,  
Commander, First Coast Guard District.

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